IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7860 of 2003

For Approval and Signature:

Hon'ble ACTING CHIEF JUSTICE MR.JN BHATT
and
Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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VINAYAK CO.OP. HOUSING SOCIETYLTD.

Versus

AHMEDABAD ELECTRICITY CO.LTD.

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Appearance:

1. Special Civil Application No. 7860 of 2003
MR NEHAL R JOSHI for Petitioner No. 1
NOTICE SERVED BY DS for Respondent No. 1-2

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CORAM : ACTING CHIEF JUSTICE MR.JN BHATT
and
MR.JUSTICE A.L.DAVE

Date of decision: 20/06/2003

ORAL JUDGEMENT

(Per : ACTING CHIEF JUSTICE MR.JN BHATT)

Rule. Service of Rule is waived by learned advocate Mr. KB Pujara for Ahmedabad Electricity Company; learned advocate Mr. RM Chhaya/Mr. MG Nagarkar for Ahmedabad Municipal Corporation; learned advocate Mr. DN Patel for Ahmedabad Urban Development Authority; and learned Government Pleader Mr. AD Oza for the State.

2. Learned counsel appearing for the respondents have already agreed and waived the service of Rule, and upon joint request and considering the peculiar facts and special circumstances obtainable in this petition, same is being taken up for hearing today.

3. This petition pertains to "High Rise Building" in respect of which "No Objection Certificate" was not issued, situated in the City of Ahmedabad.

4. After having heard the learned counsel appearing for the parties and considering the peculiar facts and special circumstances, we propose to dispose of finally this petition with following directions;

(i) The petitioner who has not installed requisite Fire Safety Measures so far, which are otherwise required for his High Rise Building, shall install Fire Safety Systems as required under the law on or before 31st October 2003.

(ii) Upon completion of such installations, the petitioner shall apply to AMC for the purpose of obtaining "No Objection Certificate" and after having made such an application, it will be incumbent upon the AMC to decide either by way of granting or rejecting No Objection Certificate within a period of 30 days from the date of such application along with the payment of scrutiny fees.

(iii) On receipt of such "No Objection Certificate", the petitioner shall apply for grant of Building Use Permission either under GDCR or BPMC Act to the AMC or AUDA as the case may be, in a prescribed form with requisite data and information within a period of 30 days with a copy to AEC, and, on making such application, AEC will be at liberty to supply electric connection to the petitioner, on usual terms and conditions, and the AEC shall not discontinue or disconnect

electric supply of the petitioner if such supply was already granted till the decision is taken about Building Use Permission.

(iv) In the event of rejection of Building Use Permission, for whatever reason, it shall be incumbent upon the authority to send such a Report to AEC within one week from such rejection and intimation of the same shall be sent to the petitioner.

(v) Upon receipt of the Report from AMC and/or AUDA, with regard to the rejection of the Building Use Permission to the petitioner, the AEC shall, before disconnecting electric supply, serve a notice to the petitioner granting him 30 days' time from the date of receipt of notice, with a view to facilitate him with an opportunity for making alternative arrangement or to avail permissible legal redressal.

5. It is clarified, for the removal of doubt, if any, that the notices earlier issued by the authorities shall not be acted upon and implemented by which time the authorities are directed to decide the application made and/or to be made by the petitioner, and it will be open for the authorities for further action after consideration of the application of the petitioner and take permissible legal actions.

6. This petition stands finally disposed of with aforesaid directions. However, we clarify, with a view to remove doubt, that in case of any difficulty, it will be open for the parties to approach or move this Court. Upon request, direct service is granted.

7. Rule is made absolute to the above extent without any order as to costs.

[ J.N. Bhatt, Actg. C.J. ]

[ A.L. Dave, J. ]

*/Mohandas